

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

National Pasteurized
Eggs, LLC

v.

Civil No. 07-103-JL

L. John Davidson

PROCEDURAL ORDER

On May 11, this court held a telephone conference with counsel to discuss, inter alia, the motion practice surrounding the various affidavits submitted by the defendant in connection with the motions for summary judgment. The court ordered the defendant to electronically file properly signed versions of those affidavits by 5 p.m. that day. The court also ordered that this filing would be without prejudice to the arguments made by the plaintiff in its objections to the defendant's motions for leave to file substitute affidavits (that objection is document no. 82) and to extend time (that objection is document no. 83), as well as the plaintiffs' motions to strike the substitute affidavits (that motion to strike is document no. 84) and the defendant's motion for summary judgment (that motion to strike is document no. 85).

By May 18, the plaintiff shall file any additional objections, not to exceed ten pages, to the versions of the affidavits filed on May 11. Also by May 18, the defendant shall file his objections to the plaintiff's motions to strike

(document nos. 84-85). No reply memoranda shall be permitted to these objections, the plaintiff's additional objections to the affidavits filed on May 11, or the plaintiff's objections already on file (document nos. 82-83).

The court will then promptly issue an order on whether the affidavits should be considered in ruling on the motions for summary judgment and, in so doing, disposing of all of the foregoing motions and objections filed in connection with the affidavits. If necessary in light of that ruling, the order will also set the deadlines for the plaintiff to object to the defendant's motion for summary judgment and for the defendant to reply to that objection.

Finally, that portion of the court's April 2 order directing the parties to file a new discovery plan is VACATED. If necessary, the process of scheduling further events in this case will await the court's decisions whether to consider the affidavits and, also if necessary, on the summary judgment motions.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: May 12, 2010
cc: D. William Toone, Esq.
Peter G. Callaghan, Esq.
Paul C. Bordeaux, Esq.
Marshall D. Hickock, Esq.